



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA-R09-OAR-2013-0009; FRL-9791-8]

Approval of Air Quality Implementation Plans; Navajo Nation;

Regional Haze Requirements for Navajo Generating Station;

Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On February 5, 2013, the Environmental Protection Agency (EPA) proposed a source-specific federal implementation plan (FIP) requiring the Navajo Generating Station (NGS), located on the Navajo Nation, to reduce emissions of oxides of nitrogen (NO<sub>x</sub>) under the Best Available Retrofit Technology (BART) provision of the Clean Air Act (CAA or Act) in order to reduce visibility impairment resulting from NGS at 11 National Parks and Wilderness Areas. EPA provided a 90-day public comment period for the proposed rule that is scheduled to close on May 6, 2013. The Navajo Nation and other stakeholders have submitted requests to extend the comment period an additional 90 days to allow time for interested parties to explore alternatives to BART that provide additional flexibility and also ensure greater reasonable progress than would be achieved under BART. In

today's action, EPA is extending the comment period an additional 90 days.

**DATES:** Comments on the proposed rulemaking published on February 5, 2013 (78 FR 8274) must be submitted no later than August 5, 2013.

**ADDRESSES:** Submit comments identified by docket number EPA-R09-OAR-2013-0009, by one of the following methods:

Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

E-mail: [r9ngsbart@epa.gov](mailto:r9ngsbart@epa.gov).

Mail or deliver: Anita Lee (Air-2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you

provide it in the body of your comment. If you send an e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Hearings:* EPA intends to hold public hearings, at least 30 days prior to the close of the comment period, to accept oral and written comments on the proposed rulemaking. EPA will provide notice and additional details related to the hearings in the Federal Register, on our website, and in the docket for this proposed rulemaking.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While documents in the docket are listed in the index, some information may be publicly available only at EPA Region 9 (e.g., maps, voluminous reports, copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Anita Lee, EPA Region 9,  
(415) 972-3958, r9ngsbart@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we",  
"us", and "our" refer to EPA.

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## **I. Background**

NGS is a coal-fired power plant located on the Navajo Nation Indian Reservation, just east of Page, Arizona, approximately 135 miles north of Flagstaff, Arizona. Emissions of NO<sub>x</sub> from NGS affect visibility at 11 National Parks and Wilderness Areas that are designated as Class I federal areas, mandated by Congress to receive heightened protection. NGS is subject to the BART requirement of the CAA and the Regional Haze Rule based on its age and its effects on visibility in Class I areas.<sup>1</sup>

On February 5, 2013, EPA proposed a BART determination to require NGS to achieve a nearly 80 percent reduction of its current overall NO<sub>x</sub> emission rate. EPA also proposed an

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<sup>1</sup> Please refer to 78 FR 8274 (February 5, 2013) for additional background information related to NGS, regional haze and the protection of visibility at mandatory Class I federal areas, and the statutory and regulatory framework for addressing visibility impairment from sources located in Indian country.

alternative to BART that would provide flexibility to NGS in the schedule for the installation of new post-combustion control equipment. EPA's proposed alternative to BART credits NGS for its early and voluntary installation of new combustion controls to reduce NO<sub>x</sub> emissions beginning in 2009 and therefore achieves greater reasonable progress than BART.

In recognition that there may be other approaches that could result in equivalent or better visibility benefits than BART, as well as the singular importance of NGS to the Navajo Nation, Hopi Tribe, and other numerous tribes located in Arizona, EPA also outlined a framework for evaluating other alternatives to provide greater flexibility than EPA's proposed alternative to BART. EPA requested comment on Alternatives 2 and 3 that provide until 2025 or 2026 for compliance but would require the owners of NGS to implement additional emission reductions in order to assure greater reasonable progress than would otherwise be achieved under BART.

EPA encouraged a robust public discussion of our proposed BART determination and alternative, as well as Alternatives 2 and 3, and recognized the potential need for a supplemental proposal if Alternatives 2 or 3, or other approaches developed by other parties, are identified as meeting the needs of stakeholders and meeting the requirements of the CAA.

On February 15, 2013, Salt River Project (SRP), co-owner and operator of NGS, requested a 90-day extension of the public comment period. SRP stated that identifying and analyzing alternatives and discussing options with interested parties would require a significant amount of time. On February 21, 2013, the Central Arizona Water Conservation District (CAWCD) submitted a similar request for a 90-day extension of the comment period.<sup>2</sup> On March 1, 2013, the Navajo Nation also requested a 90-day extension of the comment period in order to allow the Navajo Nation the time and opportunity to participate with NGS owners and other stakeholders in examining the feasibility of additional alternatives, including Alternatives 2 and 3.

## **II. Today's Action**

EPA recognizes that the stakeholder process, to develop viable alternatives to BART that provide additional flexibility to the owners of NGS while achieving more emission reductions to assure greater reasonable progress than BART, will require a significant amount of time. EPA also recognizes the critical

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<sup>2</sup> The CAWCD manages the Central Arizona Project, a water delivery system that relies on electricity from NGS to pump surface water from the Colorado River for use by numerous tribes in Arizona, as well as agricultural, municipal, and industrial water users. Please refer to 78 FR 8274 (February 5, 2013) for additional information about CAWCD and its relationship to NGS and tribes located in Arizona.

importance of active participation by the Navajo Nation, the Hopi Tribe, and other affected tribes located in Arizona in the development of alternatives to BART. Therefore, EPA is extending the comment period by an additional 90 days.

**List of Subjects in 40 CFR Part 49**

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 8, 2013.        Jared Blumenfeld,  
Regional Administrator, Region 9.

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Date: 03/19/2013]